

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION
of the 109th Congress¹**

[Date approved: July 26, 2005]²

Bill No. and sponsor: H.R. 1698 (Rep. Pascrell).

Proponent name, location: Association of Food Industries, Inc.
3301 RT 66, Ste. 205, Bldg. C
Neptune, NJ 07753

Other bills on product (109th Congress only): H.R. 1700 (Rep. Pascrell).

Nature of bill: Temporary duty suspension through December 31, 2008.

Retroactive effect: None.

Suggested article description(s) for enactment (including appropriate HTS subheading(s)):

Capers, prepared or preserved by vinegar, other than such goods in immediate containers each holding 3.4 kg or less (provided for in subheading 2001.90.20).

Check one: ☐ Same as that in bill as introduced
☒ Different from that in bill as introduced (explain differences in Technical comments section)

Product information, including uses/applications and source(s) of imports:

Capers are the unripened flower buds of *Capparis spinosa*, a prickly, perennial shrub-like plant. It measures about 3 feet tall and has small, green herb buds that are harvested by hand.³ Capers are used in a number of classic French sauces (répoulade, ravigote, Tartare).⁴ Major world producing countries include Spain, France, Italy, Greece, Algeria, Egypt, Morocco, Tunisia, Cyprus, and Iran.⁵ Production data for these countries are not available. Areas with intensive caper cultivation include Spain (2,600 hectares) and Italy (1,000 hectares).

Total U.S. imports of capers in 2004 under subheading 2001.90.20, whether dutiable and nondutiable, were about \$5.1 million, up from the 2003 total of about \$3.6 million. Spain, Denmark, and Italy were notable importers, while other suppliers included Morocco and Turkey. Some U.S. food processors repackage imported capers under a domestic private label. Information on U.S. caper growing and processing is not available. Caper plants are grown in the United States for sale by retail nurseries,

¹ Industry analyst preparing report: Renee Johnson (202-205-3313); Tariff Affairs contact: Jan Summers (202-205-2605).

² A copy of this memorandum is available at www.usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm.

³ "Capers" available at <http://www.herbsandspices.org/capers.html> and retrieved Sept. 28, 2004.

⁴ "What are capers and what are they good for?" available at <http://www.ochef.com/489.htm> and retrieved on Sept. 28, 2004.

⁵ "Capers" available at <http://www.hort.purdue.edu/newcrop/cropfactsheets/caper.html> and retrieved Sept. 28, 2004.

primarily for use in landscaping and as ornamental plants.⁶ Other limited information suggests that capers may be grown in small quantities as a food crop in northern California.⁷ The California Agriculture Statistics Service reports no documented commercial caper production.⁸

Estimated effect on customs revenue:

For this analysis, U.S. imports for 2005-2009 are projected assuming a simple linear trend from reported dutiable import volumes for recent years. The Commission's estimates of the potential reduction in tariff revenue take into account likely shipments from countries eligible for special rates of duty; in doing so, it is assumed that all shipments reported as products of Morocco in recent years would become eligible for duty-free entry under the U.S.-Morocco Free Trade Agreement once it is implemented.⁹

HTS subheading: 2001.90.20					
	2005	2006	2007	2008	2009
Col. 1-General rate of duty (AVE) <u>1/</u>	8%	8%	8%	8%	8%
Estimated value <i>dutiable</i> imports <u>2/</u>	\$3,964,000	\$4,162,000	\$4,370,000	\$4,589,000	\$4,818,000
Customs revenue loss <u>3/</u>	\$317,120	\$332,960	\$349,600	\$367,120	\$385,440

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available. The rate shown is the "general" or normal trade relations rate. Other preferential rates may apply to countries entitled to "special" tariff treatment.

2/ Source of estimated dutiable import data: Commission estimates using official U.S. Government statistics.

3/ Assumes tariffs are suspended for calendar years; rounded to the nearest \$10,000.

Contacts with domestic firms/organizations (including the proponent):

The table lists the industry representatives contacted by the Commission and the submissions received in 2004, in response to similar bills of the 108th Congress. (See H.R. 5017 and H.R. 5018 (108th Congress, Rep. Pascrell) available at the Commission's website.¹⁰) All submissions received by the Commission are attached in the appendices to this report.

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?

⁶ Telephone interview with Randy Baldwin at San Marcos Growers in Santa Barbara, CA, on Sept. 28, 2004, and also Bill Nelson at Pacific Tree Farms in Chula Vista, CA, on Sept. 30, 2004.

⁷ Ibid.

⁸ Telephone interview with Bill Grigg, California League of Food Processors, based on information obtained from staff at the California Agriculture Statistics Service.

⁹ Morocco's imports have been imported with payment of the general duty rate, and amounted to about \$236,000 in 2003 and \$36,000 in 2004 in terms of dutiable value.

¹⁰ Access to electronic copies of these memos is available at http://www.usitc.gov/tata/hts/other/rel_doc/bill_reports/108c.htm.

		(Yes/No)		
Steve Hofmann, Sandler, Travis & Rosenberg, 1300 Pennsylvania Ave., Ste 400, Washington, DC 20004, Ph: 202-216-9307 <u>Representing:</u> Association of Food Industries, Inc., 301 RT 66, Ste. 205, Bldg. C, Neptune, NJ 07753, Ph: 732-922-3008	9/28/2004	No	Yes	No
Barbara Harloe, World Finer Foods, Inc., 300 Broadacres Dr., Bloomfield, NJ 07003, Ph: 973-338-0300 ext. 129	10/20/2004	No	Yes	No
Randy Baldwin, San Marcos Growers, 125 S. San Marcos Rd., Santa Barbara, CA 93111, Ph: 805-683-1561	9/28/2004	No	No	No
Bill Nelson, Pacific Tree Farms, 4301 Lynwood Dr., Chula Vista, CA 91910, Ph: 619-422-2400.	9/30/2004	No	No	No
Bill Grigg, California League of Food Processors, 980 9 th St., Ste 230, Sacramento, CA 95814, Ph: 916-444-9260	9/29/2004	No	No	No
Gary Nelson, California Ag Statistics Service, 650 Capitol Mall, Sacramento, CA 95814, Sacramento, CA 95812, Ph: (916) 498-5161	9/29/2004	No	No	No

Technical comments:¹¹

It is suggested that the article description be amended as shown on page one. The language would align closely on other tariff descriptions, and would exclude goods of subheading 2001.90.10 imported in bulk or larger containers without attempting to delimit what type of packaging might apply to goods of subheading 2001.90.20. Omitting the reference to acetic acid would accord with Food and Drug regulations that bar the use of this substance on products intended for consumption as food.

¹¹ The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

109TH CONGRESS
1ST SESSION

H. R. 1698

To suspend temporarily the duty on certain capers preserved by vinegar
or acetic acid.

IN THE HOUSE OF REPRESENTATIVES

APRIL 19, 2005

Mr. PASCRELL introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To suspend temporarily the duty on certain capers preserved
by vinegar or acetic acid.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. CERTAIN CAPERS.**

4 (a) IN GENERAL.—Subchapter II of chapter 99 of
5 the Harmonized Tariff Schedule of the United States is
6 amended by inserting in numerical sequence the following
7 new heading:

“	9902.20.02	Capers, prepared or pre- served by vinegar or acetic acid, in containers holding 3.4 kg or less (provided for in subheading 2001.90.20) ..	Free	No change	No change	On or before 12/31/2008	”.
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1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) applies to articles entered, or withdrawn
3 from warehouse for consumption, on or after the 15th day
4 after the date of the enactment of this Act.

